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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10 036,866	12 21 2001	Edouard A. Mamedov	SIC 01-0002	4021

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EXAMINER

SAEED, KAMAL A

ART UNIT

PAPER NUMBER

1626

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/036,866

Applicant(s)

MAMEDOV ET AL.

Examiner

Kamal A Saeed

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-128 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☒ Claim(s) 1-128 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claims 1-128 are pending in this application.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1, 2 and 13, are drawn to catalyst composition of compounds of the formula depicted in claim 1, classified in class 502 and several sub-classes.
 - II. Claims 3-5 and 14, are drawn to catalyst composition of compounds of the formula depicted in claim 3, classified in class 502 and several sub-classes.
 - III. Claims 6-9, 15 and 16, are drawn to catalyst composition of compounds of the formula depicted in claim 6, classified in class 502 and several sub-classes.
 - IV. Claims 10-12 and 17, are drawn to catalyst composition of compounds of the formula depicted in claim 10, classified in class 502 and several sub-classes.
 - V. Claims 18-36, are directed to a process of making a catalyst composition of the compounds of the formula depicted in claim 1, classified in class 502 and several subclasses.
 - VI. Claims 37-56, are directed to a process of making a catalyst composition of the compounds of the formula depicted in claim 37, classified in class 502 and several subclasses.
 - VII. Claims 57-79, are directed to a process of making a catalyst composition of the compounds of the formula depicted in claim 57, classified in class 502 and several subclasses.

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- VIII. Claims 80-106, are directed to a process of making a catalyst composition of the compounds of the formula depicted in claim 80, classified in class 502 and several subclasses.
- IX. Claims 107-125, are directed to a process of ammoxidation of alkanes, using a catalyst composition of the compounds of the formula depicted in claim 1, classified in class 502 and several subclasses.
- X. Claims 126, is directed to a process of ammoxidation of alkanes, using a catalyst composition of the compounds of the formula depicted in claim 126, classified in class 502 and several subclasses.
- XI. Claims 127, is directed to a process of ammoxidation of alkanes, using a catalyst composition of the compounds of the formula depicted in claim 127, classified in class 502 and several subclasses.
- XII. Claims 128, is directed to a process of ammoxidation of alkanes, using a catalyst composition of the compounds of the formula depicted in claim 128, classified in class 502 and several subclasses.

The above groups represent general areas wherein the inventions are independent and distinct, each from the other because of the following reasons:

Groups I-IV are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions or different effects (MPEP 806.04, MPEP 808.01). In the instant case the different catalyst compositions have different core structures and different properties.

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Invention Groups I and V are related as product and process of making thereof. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make another materially different product or (2) that the product as claimed can be made by another materially different process (MPEP 806.05(f)). In the instant case, the product as claimed can be made by another materially different process as is clearly evident from the examples in pages 21 and 16. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups II and VI are related as product and process of making thereof. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make another materially different product or (2) that the product as claimed can be made by another materially different process (MPEP 806.05(f)). In the instant case, the product as claimed can be made by another materially different process as is clearly evident from the examples in pages 21 and 22. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups III and VII are related as product and process of making thereof. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make another materially different product or (2) that the product as claimed can be made by another materially different process (MPEP 806.05(f)). In the instant case, the product as claimed can be made by another materially different process as is clearly evident from the examples in page 42. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

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Invention Groups IV and VIII are related as product and process of making thereof. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process as claimed can be used to make another materially different product or (2) that the product as claimed can be made by another materially different process (MPEP 806.05(f)). In the instant case, the product as claimed can be made by another materially different process as is clearly evident from the examples in page 44. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups I and VIII are related as product and method of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different method of using the product (MPEP 806.05(h)). In the instant case, the process of using the product can be practiced by another materially different product as shown in claims 126, 127 and 128. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups II and IX are related as product and method of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different method of using the product (MPEP 806.05(h)). In the instant case, the process of using the product can be practiced by another materially different product as shown in claims 107, 127 and 128. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups III and X are related as product and method of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different method of using the product (MPEP 806.05(h)). In the instant case, the process of using the product can be practiced by another materially different product as shown in claims 126 and 128. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Invention Groups IV and XII are related as product and method of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different method of using the product (MPEP 806.05(h)). In the instant case, the process of using the product can be practiced by another materially different product as shown in claims 126 and 127. Therefore a separate search considerations are involved, which would impose a burden if unrestricted.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purpose as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

A telephone call was made to Donna Scheffer, on 02/20/03 to request an oral election to the above restriction requirement, but did not result in an election being made.

In accordance with M.P.E.P. 821.04 and *In re Ochiai*, 71 F.3d 1565, 37 USPQ 1127 (Fed. Cir. 1995), rejoinder of product claims with process of making and method of use claims commensurate in scope with the allowed product claims will occur following a finding that the product claims are allowable. Until such time, a restriction between product claims and process is deemed proper. Additionally, in order to retain the right to rejoinder in accordance with the above policy, Applicant is advised the process of making and process of use are amended during prosecution to maintain either dependency on the product claims or to otherwise include limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.**

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kamal Saeed whose telephone number is (703) 308-4592. The examiner can normally be reached on Monday-Friday from 8:00 AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (703) 308 4537. The unofficial fax phone for this group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate the Header (upper right) "Official" for papers that are to be entered into the file, and " Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

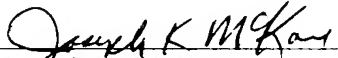
Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be

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addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-2286.

Kamal Saeed, Ph.D
March 3, 2003



Joseph K. McKane
Supervisory Patent Examiner
Art Unit 1626, Group 1620
Technology Center 1